

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

ROSY GIRON DE REYES, *et al.*,

Plaintiffs,

v.

WAPLES MOBILE HOME PARK
LIMITED PARTNERSHIP, *et al.*,

Defendants.

Civil No.: 1:16cv563-TSE-TCB

**DEFENDANTS' UNOPPOSED MOTION TO EXTEND TIME TO
FILE FINAL PRETRIAL FILINGS**

Defendants Waples Mobile Home Park Limited Partnership, Waples Project Limited Partnership, and A. J. Dwoskin & Associates, Inc. (collectively "Defendants"), by counsel, respectfully submit this Unopposed Motion to Extend Time to File Final Pretrial Filings.

1. The Court's Initial Scheduling Order from July 28, 2016 required that the parties "file on or before the final pretrial conference date the Rule 26(a)(3) disclosures and a list of the exhibits to be used at trial, a list of the witnesses to be called at trial and a written stipulation of uncontested facts." Dkt. 35. In addition, this Order requires that "[t]he exhibits themselves or a copy should be exchanged with opposing counsel before the conference." *Id.* Also, pursuant to this Initial Scheduling Order, objections to the opposing party's exhibits are then due 10 days following the final pretrial conference. *Id.*

2. Since that Initial Scheduling Order, this case has had a lengthy procedural history which Defendants will not discuss in detail here. Recently, following an appeal to the U.S. Fourth Circuit Court of Appeals and a remand from the Circuit Court, the Court entered an Order denying

Defendants' Motion for Summary Judgment and setting a final pretrial conference for Thursday September 24, 2020. Dkt. 283.

3. Defendants thereafter filed a Motion to Clarify and/or Reconsider the Court's August 19, 2020 Summary Judgment Order ("Motion to Clarify and/or Reconsider"). Dkt. 284. In the Motion to Clarify and/or Reconsider, Defendants requested clarification about which issues would proceed to trial and requested the Court reconsider its ruling on Defendants' Motion for Summary Judgment. Dkt. 285. Among other issues, Defendants sought clarification of how the Court ruled on Plaintiffs' prima facie case at summary judgment, which is step 1 of the three-step burden-shifting standard set forth in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015). Defendants argued that the Court was silent in its Summary Judgment Order on whether the Court found that there are disputes of fact at step 1 or whether the Court has determined that Plaintiffs already established their prima facie case at step 1 as a matter of law. Dkt. 285 at 2. Defendants also argued that the Court should reconsider its ruling and grant Defendants' Motion for Summary Judgment to reach a correct judgment under the law. Dkt. 285 at 3.

4. Subsequently, this Court re-set the hearing on the Motion to Clarify and/or Reconsider to September 23, 2020 and moved the final pretrial conference to that same date. Dkt. 287.

5. In opposition to the Motion to Clarify and/or Reconsider, Plaintiffs argued that the Fourth Circuit had found that Plaintiffs had established step 1 – their prima facie case – as a matter of law. Dkt. 288 at 5-6.

6. Because the Court has not ruled on Defendants' Motion to Clarify and/or Reconsider, it is left unclear to Defendants which issues, if any, the Court will permit to proceed

to trial. For example, the Court could reconsider its Summary Judgment Order and grant Defendants' Motion for Summary Judgment. And, it appears from Plaintiffs' opposition to the Motion to Clarify and/or Reconsider (Dkt. 288) that Plaintiffs believe they do not have to put on evidence supporting their prima facie case at trial since they believe the Fourth Circuit has already found that they have satisfied their prima facie case as a matter of law.

7. As a result, Defendants request the Court extend the deadlines for final pretrial filings (and thus objections to any exhibits) until after the Court determines which issues, if any, remain for trial. This will save the parties and the Court from unnecessary work and the confusion of having final pretrial filings that potentially do not conform to the issues to be presented at trial, if any.

8. For example, if the Court grants Defendants' Motion to Clarify and/or Reconsider and grants Defendants' Motion for Summary Judgment, it will be unnecessary to submit any pretrial filings. If, however, the Court agrees with Plaintiffs' position, that they have already satisfied their prima facie case as a matter of law such that Plaintiffs do not need to put on evidence in support of their prima facie case at trial, the final pretrial filings may look drastically different than if the Court finds that those issues remain for trial.

9. Defendants conferred with Plaintiffs on the relief requested in this motion and Plaintiffs do not object to the requested relief.

WHEREFORE, Defendants respectfully request the Court extend the time for final pretrial filings, such as Rule 26(a)(3) disclosures, exhibit and witness lists, and any written stipulation of uncontested facts, until after the Court rules on Defendants' Motion to Clarify and/or Reconsider. A proposed Order is attached.

Respectfully submitted,

WAPLES MOBILE HOME PARK LIMITED
PARTNERSHIP, WAPLES PROJECT LIMITED
PARTNERSHIP AND
A. J. DWOSKIN & ASSOCIATES, INC.

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of September, 2020, I caused the foregoing to be filed electronically with the Clerk of the Court using CM/ECF, which will then send a notification of such filing to all counsel of record.

/s/

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